

STATE OF MICHIGAN



JAMES J. BLANCHARD, Governor

DEPARTMENT OF TREASURY

ROBERT A. BOWMAN, State Treasurer

STATE TAX COMMISSION
4th Floor Treasury Building

Lansing, Michigan 48922 Telephone 517 373-0500

COMMISSION MEMBERS

W. EUGENE ATKINSON
WARD G. DEXEL
ROBERT O. VANDERMARK

TO: Assessing Officers

FROM: State Tax Commission

Attached is a brief summary of Act 333, P.A. of 1982 and a listing of 27 questions and answers relating to the summer collection of school taxes.

This office is not authorized to issue legal opinions and the answers given are not to be considered as such but rather as a statement of the facts as we believe them to be. If a formal opinion is found necessary or desirable, such an opinion should be secured from the municipality's legal counsel or through legal counsel from the Attorney General.

Attachments

SUMMER COLLECTION OF SCHOOL TAXES

Questions and Answers

The answers to the following questions are not legal opinions. If a legal opinion is necessary or desirable we suggest that the public official secure such an opinion from the municipality's legal counsel or from the county prosecutor.

1. Q. If a city collects a school tax summer levy on a date other than the date on which it collects its own taxes are the taxes paid subsequent to September 14 subject to interest at the rate of 1% per month or fraction thereof?

A. Yes. (Sec 380.1611(4) M.C.L., Act 333, P.A. of 1982)
2. Q. May a city that collects a summer school tax levy on a date other than the date it collects its own taxes add a 1% property tax administration fee to the school taxes paid during the period from the due date through the subsequent February? May the city also add an additional 3% penalty to the taxes paid on or after the 15th day of February following the year of the levy?

A. Yes. (Sec 380.1611(4) M.C.L., Act 333, P.A. of 1982)
3. Q. If a City collects a school summer tax levy on the same date it collects its own taxes are there specific limitations regarding collection fees, interest and penalties?

A. Yes. A city that collects a summer school tax levy with the city taxes must charge the same penalties, interest and collection charges on the school taxes as it charges and is authorized to charge on the city taxes. The school taxes shall be returned as delinquent to the county treasurer in the same manner and with the same interest, penalties and fees as city taxes are returned.
4. Q. If a city collects school taxes on a date other than the date it collects its own taxes and adds a 1% property tax administration fee; interest at the rate of 1% per month to taxes collected on and after September 15; and an additional 3% penalty for collection made on February 15 through the end of February which items are included in the return of delinquent taxes?

A. The accumulated interest for the months of September, October, November, December, January, and February (6%) will be added to and become part of the delinquent tax. The 1% administration fee will be returned as a separate item. The 3% penalty will not be returned. Upon collection the tax including the 6% interest belongs to the school district and the 1% administration fee will be paid to the City (Sec 380.1611(4), M.C.L., Act 333, 1982 and Sec 211.44, M.C.L. Act 503, 1982).

5. Q. What is the lien date on school taxes collected in the summer by a city?
 - A. The school taxes collected by a city with the city taxes become a lien against the property on the same date as the city taxes. If collected by a city on a date other than the date it collects its own taxes the school taxes become a lien against the property on July 1. (Sec 380.1611(4) M.C.L., Act 333, P.A. of 1982)
6. Q. What fees and penalties may a township add to school taxes levied in the summer?
 - A. A 1% property tax administration fee may be added to taxes collected from the due date through the last day of the following February. An additional 3% penalty may be added to school taxes collected on or after the subsequent February 15. The township board must adopt a resolution or ordinance authorizing the addition of the fee and penalty. If adopted the resolution or ordinance is effective for all levies that become a lien after the resolution or ordinance is adopted.
7. Q. Must a township add a 1% interest charge per month or fraction of a month to all school taxes paid on or after September 15 through the following February?
 - A. Yes. (Sec 380.1612(2) M.C.L., Act 333, P.A. of 1982 and Sec 211.59, M.C.L., Act 503, P.A. of 1982) See subsequent questions and answers for treatment of property tax administration fees, penalties and interest on deferred taxes.
8. Q. Which unpaid items are returned delinquent to the county treasurer by the township treasurer making a summer school tax levy collection?
 - A. The tax and the accumulated interest for the months of September, October, November, December, January and February (6%) as a part of the tax and as a separate item the 1% property tax administration fee. The 3% penalty is not returned delinquent. Upon collection by the county treasurer the school district is paid the tax and the amount of the interest returned delinquent and the 1% property tax administration fee is paid to the township. (Sec 380.1612(2) M.C.L. Act 333, P.A. of 1982 and Sec 211.44 M.C.L. Act 503, P.A. of 1982)
9. Q. What is the lien date for school taxes collected by a township in the summer?
 - A. July 1. (Sec 380.1612(2) M.C.L., Act 333, P.A. of 1982)
10. Q. If a city or a township makes a summer collection of school taxes what portion of the total school tax levy may be levied?
 - A. The total or one half of the school taxes computed on the basis of the amount or millage rates which the school district is authorized to levy on the date the levy is certified by the school district.

11. Q. May a school district summer levy be made in only a portion of the governmental units included within the boundaries of the school district or must the summer levy be made in all of the governmental units included in the school district?
- A. Pursuant to Sec. 380.1613, M.C.L. if a school district has determined to impose a summer levy it appears that each unit within the district should be requested to levy the tax. If an agreement to collect cannot be reached the school district may negotiate with the county treasurer to collect the tax. It appears that if an agreement cannot be reached with a city or township that it is not mandatory that the school district negotiate with the county treasurer or determine to collect its taxes and could proceed to collect taxes in only those units with which agreement has been reached. Pursuant to Sections 380.1611 and 380.1612 if a city or township has not by resolution agreed to make a summer collection of school taxes, it would appear that a school district could proceed to make the collection in only those units that have agreed to make the collection (A.G. Opinion Number 5931 dated July 15, 1981).
12. Q. Pursuant to Act 333, summer collection of school taxes, the payment shall be deferred through February 14 for homestead properties of eligible persons and for agricultural property. Is the agricultural property eligible for tax payment deferral limited to homestead property?
- A. No. All property classified as agricultural in the assessment roll qualifies if the gross receipts in the previous year from agricultural or horticultural operations exceeds the household income of the owner in the previous year, or the average gross income for the 3 previous years exceeds the household income for the previous year. Household income is computed in the same manner as computed pursuant to the State Income Tax Act.
13. Q. What are the eligibility requirements for the deferral of summer tax levies on homestead properties?
- A. The homestead property taxes of a taxpayer who is a totally and permanently disabled person, blind person, paraplegic, quadriplegic, senior citizen, eligible serviceman, eligible veteran, or eligible widow, as these persons are defined in Chapter 9 of Act 281, P.A. of 1967 (State Income Tax Act) and who for the prior year had a total household income of \$10,000.00 or less are eligible for deferral of summer property tax levies. (Sec 211.51(2)(a), M.C.L., Act 503, P.A. of 1982)
14. Q. Must a local tax collecting unit provide a deferment of summer tax payments for those eligible?
- A. Yes. (Sec 211.51(2) M.C.L., Act 503, P.A. of 1982)

15. Q. How does an eligible taxpayer secure a deferral of the payment of summer taxes?
- A. A taxpayer may claim a deferment by filing with the treasurer of the tax collecting unit an intent to defer the payment of the summer tax. The form will be available in the office of the tax collecting officer. The final date for filing a request for deferral is September 14 or the date a penalty or interest is added whichever is later.
16. Q. If the payment of summer taxes is deferred what is the period of deferment?
- A. Through February 14 of the year following the year of the levy.
17. Q. What is the effect of deferral?
- A. All penalties of interest normally charged on taxes collected from the due date through the following February 14 shall be waived or in other words forgiven for the period of deferment. The 1% property tax administration fee if charged, shall not be waived nor will a collection fee if charged by a city collecting the summer taxes with the city taxes.
18. Q. If deferred taxes are paid to the local treasurer on February 15 or at any time through the last day of February what penalties, interest, collection fees, and/or property tax administration fees are added to the collection?
- A. If the taxes are collected by a township treasurer or by a city on a date other than the date a city collects its own taxes and if the township or city has imposed a 1% property tax administration fee and a 3% penalty for payments made from February 15 to the end of February, the collections made on and after February 15th shall include the 1% property tax administration fee, the 3% penalty and interest of 1% for the month of February only.
- If deferred taxes are collected by a city that collects the summer school levy with its own taxes, the taxes paid between February 15 and the last day of February will include the taxes, the collection fee, and only those additional penalties and interest that would normally be added during that interval will be added to the tax. Simply stated the taxes are not subject to penalties and interest for the period of deferment.
19. Q. For the purpose of securing a deferral of summer taxes what is the definition of a Senior Citizen?
- A. Pursuant to Sec 211.51, M.C.L., a Senior Citizen is as defined in the State Income Tax Act for purposes of summer tax deferral. The State Income Tax Act defines Senior Citizen as an individual or either 1 of 2 persons filing a joint state income tax return who is 65 years of age or older at the close of the tax year. With few exceptions December 31 is the close of the tax year. A person who is or will be 65 on or before December 31 of the year in which the deferral is requested qualifies for the deferral.

20. Q. If a county treasurer or a school district treasurer collects the summer school tax levy, who authorized the levy of the 1% property tax administration fee and 3% penalty.
- A. If a county treasurer collects the summer school levy the County Board of Commissioners, by resolution, will authorize the imposition of the 1% property tax administration fee and/or the 3% penalty. If a school district treasurer collects the summer school levy the Board of Education of the school district will be the governing body responsible for authorizing the imposition of the 1% property tax administration fee and/or the 3% penalty.
21. Q. 3% Penalty, Sec 211.44 M.C.L.:
If assessed and collected by a city collecting the summer school taxes on a date other than the date it collects its own city taxes and a 3% penalty is added to collections made between February 15 and the last day of February to whom does the 3% penalty attributable to school taxes belong?
- A. To the School District (Sec 380.1611, M.C.L.) However, the 3% penalty will not be added to the taxes returned delinquent.
22. Q. 3% Penalty - Sec 211.44, M.C.L.: If a township makes a summer collection of school taxes and adds a 3% penalty to collections made between February 15 and the last day of February does the 3% penalty belong to the school district or the township?
- A. To the school district. (Section 380.1612, M.C.L.) The 3% penalty is not added to taxes returned delinquent to the county treasurer.
23. Q. 3% Penalty (Sec 211.44, M.C.L.) If a summer school tax collection is made by a county treasurer or a school district treasurer and a 3% penalty is added to the taxes collected between February 15 and the last day of February to whom does the 3% penalty belong?
- A. Sec 380.1613 (4)(2) provides that if the summer school tax levy is collected by a county treasurer or school district treasurer that all of the fees or charges, or both, authorized under Section 44 of Act 206 of the Public Acts of 1893, may be imposed on taxes paid before March 1 and shall be retained by the treasurer actually performing the collection of the summer property tax levy. This includes the 1% property tax administration fee and the 3% penalty.
- Section 380.1613, (10), M.C.L. provides in part, as follows: "If collections are made--by a county treasurer or by the treasurer of a school district--all revenues generated from collection fees shall be deposited when received or collected in a current tax collection fund, which fund shall be used--to pay for the cost of collecting the districts summer tax levy.
- These two sections are in conflict. One refers to both the 1% property tax administration fee and the 3% penalty and the other apparently refers to only the 1% property tax administration fee which is to be deposited in the tax collection fund.

24. Q. Is low grade iron ore specific tax to be included in the summer collection of school taxes?
- A. No. The specific tax is levied in dollar amounts. The distribution of the collections is based upon the total millage levied by all taxing units. The school portion of the specific tax levy cannot be determined until taxes are apportioned in October, or later, if apportioned based upon a legally authorized special election. A voluntary arrangement in a local unit may appear to be an early payment.
25. Q. Is a portion of the 30¢ per acre specific Commercial Forest Reserve tax to be levied with a summer school tax levy?
- A. No. See answer to question 24.
26. Q. Is the appropriate school millage to be levied with a summer collection of school taxes on Industrial Properties and Commercial Facilities having exemption certificates issued pursuant to Act 198, P.A. of 1974 and Act 255, P.A. of 1978?
- A. Yes. The State Tax Commission must also be notified of the levies made in the summer to insure that proper forms for reporting collections to the state can be supplied to collecting treasurers.
27. Q. If a county treasurer or the treasurer of a school district or intermediate school district collects the summer property tax levy who is responsible for the delivery of an assessment roll to such treasurer?
- A. The township or city shall deliver by June 1 a certified copy of the assessment roll containing state equalized valuations for each parcel of taxable property in the township or city to the treasurer collecting the summer property tax levy of the school district or intermediate school district. The cost incident to the reproduction of the roll shall be paid to the township or city by the county, school, or intermediate school district treasurer.

Note: If the entire assessment roll is furnished the collecting treasurer will, of course, be responsible for spreading taxes on only those properties located in the school district for which the collection has been authorized.